UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,373	09/18/2001	Andrew J. Powell	25044.72211-002	8347

24335   7590   07/28/2004

WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

EXAMINER
GREENE, DANIEL L

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/955,373	POWELL, ANDREW J.
	Examiner	Art Unit
	Daniel L. Greene	3621

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _18 September 2001_.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-29_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-29_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _11 February 2002_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
   1. ☐ Certified copies of the priority documents have been received.
   2. ☐ Certified copies of the priority documents have been received in Application No. _____.
   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _10/2003_.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 101

The claims 1, 10, and 19 as presently stated and best understood were considered in light of the new "Examination Guidelines for Computer-Related Inventions" and were found to be non-statutory. Discussion of the analysis of the claims under the guidelines follows.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

Claims 1, 10, 19 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

In the present case, receiving a request from a requestor for changes to a

Web site, verifying that the requestor is authorized, creating a programming code and

incorporating the code segment into the programming code for the web site

can be done between a program administrator and a programmer on paper only.

Additionally, for a claimed invention to be statutory, the claimed invention must produce

a useful, concrete, and tangible result. ["Usefulness" may be evidenced by, but not

limited to, a specific utility of the claimed invention. "Concreteness" may be evidenced

by, but not limited to, repeatability and/or implementation without undue

experimentation. "Tangibility" may be evidenced by, but not limited to, a real or actual

effect.]

In the present case, the claims do not teach a useful, concrete or tangible result

from. Incorporating the program code into the programming code for the web site.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> a.   A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be patented
> and the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Zellwenger U.S. Patent 6,397,222 [Zellwenger], and further in view of Pavlov U.S.

Patent 6,725,426 [Pavlov]

3.   As per claims 1, 10, and 19:

4.   Zellwenger discloses:

receiving a request from a requestor for changes to a web site; Col. 5-6.

verifying that the requestor is authorized to request changes to said web site;

Col. 4.

Zellwenger discloses the claimed invention except for the creating a

programming code segment from said request and incorporating the programming code

segment into the programming code for the web site. Pavlov teaches that it is known in

the art to provide creating a programming code segment from said request and

incorporating the programming code segment into the programming code for the web

site. Col. 3-4. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to provide the topic string of Zellwenger with the

mechanism of Pavlov, in order to convert text language into programming language.

As per claims 23, 26, and 28:

Zellwenger discloses:

receiving a digital request for a program code change; Col. 5-6.

Zellwenger discloses the claimed invention except for the generating the program

code change based on the content of the digital request, said generating step

performed by a digital device, and inserting the program code change into the program

code. Pavlov teaches that it is known in the art to provide generating the program code

change based on the content of the digital request, said generating step performed by a

digital device, and inserting the program code change into the program code. Col. 3-4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the topic string of Zellwenger with the mechanism of Pavlov, in order to convert text language into programming language.

As per claims 2 and 11:

Zellwenger discloses the claimed invention except for updating a log file. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to update a log file, since it is known in the art that updating a log file is required for administrators to be able to determine what end users made what changes as taught by Zellwenger. Col. 4.

As per claims 3, 12, and 29:

Zellwenger further discloses:

wherein said verification step comprises comparing a security code in said request to a list of security codes with authorization to make updates. Col. 4.

As per claim 4:

Zellwenger further discloses:

wherein said verification step comprises comparing an authorization level of said security code to a required authorization level required for said request. Col. 4.

As per claims 5, 20 and 22:

Zellwenger further discloses:

requesting a confirmation of said request; and receiving a confirmation of said request. Col. 6.

As per claims 6 and 7:

Zellwenger does not expressly show sending e-mail to the requestor and wherein said request comprises e-mail.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The requesting and return message steps would be performed the same regardless of the medium of communications done. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize any type of communications available because the type of communications used does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per claims 8, 15 and 16:

Zellwenger discloses the claimed invention except for determining the request includes an invalid change location, sending an error notification upon said determination of an invalid change location, and receiving a clarification reply to said error notification before said step of changing the programming code.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to determining the request includes an invalid change location sending an error notification upon said determination of an invalid change location, and receiving a clarification reply to said error notification before said step of changing the programming code, since it is known in the art that in an automatic/self directed program change system, provisions are made to notify and assist the user in making program changes. Also, it is well known and understood by a person of ordinary skill in the art at the time of the invention that a clarification/correction/cancellation response is obvious/required for a computer program to progress.

As per claim 9:

Zellwenger further discloses:

wherein said request is a web-based form. Col. 3.

As per claim 13:

Zellwenger further discloses:

sending a request for authorization of the requested change. Col. 4.

As per claim 14:

Zellwenger does not expressly show wherein said step of modifying the programming code is performed on a BETA program. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The receiving a request from a requestor, confirming the requestor is authorized, creating programming code and modifying the programming code steps would be performed the same regardless of the type of program. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to functionally relate to the receiving a request from a requestor, confirming the requestor is authorized, creating programming code and modifying the programming code with any type of program be it BETA or other wise, because such types of programs does not change the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per claims 17, 18 and 21:

Zellwenger discloses the claimed invention except for receiving an error reply, and sending a second error message when said reply e-mail includes an invalid programming change.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to receiving an error reply, and sending a second error message when said reply e-mail includes an invalid programming change since it is known in the art that where a system has the function of error notification, improper response necessitates a second error message.

As per claims 24 and 25:

Zellwenger further discloses: comprising authorizing and confirming said digital request. Col. 4.

As per claim 27:

Zellwenger further discloses: authorizing said digital request. Col. 4.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http:llpairdirect.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

07192004

DLG

JAMES R TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600